



STATE OF WASHINGTON
PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARVIN L. SCHURKE, Executive Director

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MINUTES

February 10, 2004

The regular meeting of the Public Employment Relations Commission was held in the Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, Washington, at 10:00 a.m. Those present and participating were:

Marilyn Glenn Sayan, Chairperson
Joseph W. Duffy, Commissioner
Pamela G. Bradburn, Commissioner-designate

Marvin L. Schurke, Executive Director
Majel C. Boudia, Confidential Secretary

Chairperson Marilyn Glenn Sayan welcomed Commissioner-designate Pamela G. Bradburn to the Commission. Ms. Bradburn responded that she was delighted and honored to be asked to apply and be selected. She looked forward to making new decisions for the Commission and working with Chairperson Sayan and Commissioner Duffy. Mr. Schurke indicated that Ms. Bradburn must sign and file the oath of office before she can actually serve as a Commission member.

MINUTES OF PREVIOUS MEETINGS

The minutes of the meeting held on January 13, 2004, were approved, as amended, at this meeting.

REPORT OF THE EXECUTIVE DIRECTOR

1. Case intake for the month of January was normal, with 88 cases filed.
2. Case closures for the month of January were stellar, with 123 cases closed. This is the highest number of closures in one month in the history of the agency.
3. There were 611 cases pending at the end of January.



4. Mr. Schurke reported that review of statistics shows that the agency averaged about 600 new cases per year (about 50 cases per month) before the new laws were enacted in 2002. With the added jurisdiction, the first year averaged 84 cases per month and the current year is averaging 79 cases per month.
5. Mr. Schurke reported Unfair Labor Practice Manager Mark Downing continues to work through the backlog. The delay of preliminary rulings is currently down to the 3 to 4½ month range. The high number of case closures in January is due in substantial part to deficiency notices and dismissals issued in December. Additionally, many answers have been coming in, along with settlements of many unfair labor practice cases.

Ms. Bradburn asked if we divide out dismissals from actual decisions. Mr. Schurke responded that we do not for purposes of the monthly intake/output report, although case-specific information is provided in the agency's Annual Report.

6. The "Red List" was reviewed in detail. There were five cases listed: One was new this month; one will issue today; one will issue later this week; the draft on one is expected by Friday of this week; and the draft on the oldest of the group will be submitted to Team Leader Karl Nagel this week.
7. The Commission reviewed a letter from Kelly Fox of the Washington State Council of Fire Fighters, asking Mr. Schurke to speak at their annual Educational Seminar in Pasco on April 6, 2004. The Commission unanimously approved the request.
8. Mr. Schurke reported that an offer of employment had been extended to the law clerk applicant selected by the Commission. She will discuss the opportunity with her family and let Mr. Schurke know her decision. The start day would be March 16, 2004.
9. The Association of Labor Relations Agencies Conference will be held in Halifax, Nova Scotia, in July 2004 and PERC will host the conference in Seattle in July 2005. Mr. Schurke requested approval for the agency to send six people to the 2004 conference: Chairperson Marilyn Glenn Sayan (who is an ALRA Executive Board Member); Executive Director Schurke (who is an ALRA Past-president and current committee member), Starr Knutson (who has worked on arrangements for 2005), Katrina Boedecker, Frederick Rosenberry, and Karyl Elinski. Eight other staff members had asked to attend.

Ms. Bradburn was asked if she was interested in attending. Although she indicated she would like to attend the ALRAcademy, she suggested it would be best to send those who will work on the 2005 conference. Chairperson Sayan noted that Ms. Bradburn's assistance would be welcomed, since she

was previously active in ALRA. Mr. Schurke also indicated he will check on the ALRAcademy program for new board and commission members that is sometimes offered preceding the annual conference.

10. Mr. Schurke presented the application of Rod Falor for the Dispute Resolution Panel. The Commission unanimously approved the addition of Mr. Falor's name to the panel.

COMPLIANCE DOCKET

Spokane International Airport, Cases 16122-U-01-4115 and 16123-U-01-4116. Mr. Schurke reported that the Examiner's decision had inadvertently omitted a requirement for a notice and compliance report, but that correspondence received on February 9, 2004, had verified that the union complied with the Commission's order dated October 29, 2002. The Commission accepted the tendered compliance, and the case will now be closed.

Snohomish County PUD, Case 15544-U-00-3932. The employer appealed this case to court, but correspondence received on February 6, 2004, indicated that the parties were prepared to resolve their differences. The settlement agreement was reviewed, and Mr. Schurke recommended acceptance of the agreement to dispense with a posting of notice. The Commission unanimously approved acceptance of the settlement agreement, and the case will now be closed.

City of Seattle, Case 15932-U-01-4058. The employer initially appealed the Examiner's decision to the Commission, but later withdrew its appeal and tendered compliance. (The union is pursuing its appeal on a remedy issue.) Mr. Schurke noted there was a prospective aspect to the tender of compliance, in that the employer had scheduled negotiations with the unions representing its police officers and fire fighters, but had not yet read in the notice at a public meeting. The Commission unanimously approved acceptance of the tendered compliance, subject to staff confirmation of the prospective actions. Upon confirmation, the case will be closed without further report to the Commission.

LEGISLATIVE UPDATE

Mr. Schurke reported on bills pending before the Legislature that would affect the agency or the statutes it administers:

1. Cowlitz County supported a bill allowing contracts for up to six years under Chapter 41.56 RCW. The existing statute was likely a poor paraphrase of NLRB precedents limiting the "contract bar" to three years, but the bill was unlikely to pass this session.

2. Public School Employees of Washington has supported legislation that would preclude severances from bargaining units of school classified employees. The court-affirmed Commission precedents on severances of office-clerical employees are the target of this bill, which is still alive.
3. Several bills were filed that would prohibit teacher strikes and/or impose new impasse procedures up to and including interest arbitration. Chapter 41.59 RCW is silent on strikes, but omits the "concerted activities" clause that grants the right to strike in the public sector. A fiscal note estimating costs in millions of dollars has been filed on the latest amendment, which would have all teacher bargaining units in mediation from July 1 to July 10, and then send them all to factfinding from July 15 to July 31. Because the bill also requires the parties to be at the table each day after June 30, PERC would need to use its entire staff, plus get help from the FMCS and Oregon agencies, plus hire 100 or more panel members as mediators. This would also be in the same season as bargaining for state employees in each even-numbered year.
4. A bill to authorize charter schools has died a couple of times, but keeps coming back to life. One version of this legislation would create 45 or more new public employers under PERC jurisdiction, each with potential for a bargaining unit of certificated employees and one or more bargaining units of classified employees. Amendments and other versions would create up to 80 additional employers. New charter schools would have separate bargaining units for at least 5 years, while employees of conversion charter schools would remain in the school district bargaining units subject to a duty to bargain variances from existing contracts. PERC has filed a fiscal note.

COURT DOCKET

University of Washington v. PERC -

The employer filed a lawsuit to keep the agency from processing a unit clarification petition filed by the union, but the parties then settled their differences. The court case has thus been closed.

Port of Seattle, Case 15114-U-00-3814 -

The union has appealed to the Court of Appeals, after the Superior Court for King County affirmed the Commission's decision concerning the security functions at the cruise terminal. The agency has not taken an active role in this case in the courts. Copies of the Superior Court decision were distributed to the Commissioners.

COMMISSION DOCKET

The Commission docket was reviewed in detail, and the status of each case was discussed.

OTHER BUSINESS

There was no other business to come before the Commission.

ADJOURNMENT

There being nothing further to come before the Commission, the meeting was then adjourned.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


JOSEPH W. DUFFY, Commissioner

ATTEST:


MARVIN L. SCHURKE, Executive Director